

RESOLUTION 17-105

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING A CANCELLATION OF DEVELOPMENT AGREEMENT WITH LAND HOLDING, LLC, SUCCESSOR IN INTEREST TO MIRACLE STRIP PARTNERS, LLC, RELATING TO THE TERMINATION OF DEVELOPMENT RIGHTS ON PROPERTY LOCATED AT THE NORTHEAST CORNER OF ALF COLEMAN ROAD AND HUTCHISON BOULEVARD; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED that the appropriate officers of the City are authorized to execute and deliver on behalf of the City a Cancellation of Development Agreement between the City and Land Holding, LLC, successor in interest to Miracle Strip Partners, LLC, relating to the termination of those certain development rights established in the Development Agreement with Miracle Strip Partners, LLC, for the approximate 21.79 acre parcel of land located at the intersection of Hutchison Boulevard and Alf Coleman Road, entered by the parties on November 26, 2007; in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such agreement shall be conclusive evidence of such approval.


THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 13th day of July, 2017.

CITY OF PANAMA CITY BEACH

By: 
Mike Thomas, Mayor

ATTEST:


Diane Floyd, City Clerk

CANCELLATION OF DEVELOPMENT AGREEMENT

This Cancellation of Development Agreement is hereby made and entered on this _____, day of July, 2017, by the City of Panama City Beach, Florida (herein "City"), and Land Holding, LLC successor in interest to Miracle Strip Partners, LLC (herein "Owner"), for the purpose of dissolving certain development rights established by the Development Agreement for the Property described herein.

WITNESSETH

WHEREAS, on November 26, 2007, the City and Miracle Strip Partners, LLC, a Florida limited liability company (now defunct) entered into a Development Agreement, recorded in Bay County Official Records Book 3000, Pages 877 through 902, (the "Agreement") whereby Miracle Strip Partners, LLC, preserved certain rights, obligations and limitations regarding the development of an approximate 21.79 acre parcel of land located at the intersection of Hutchison Boulevard and Alf Coleman Road (the "Property") in the City; and

WHEREAS, as a result of economic and other conditions, Developer did not meet the schedule of development set forth in the Agreement; and

WHEREAS, the City has the right to unilaterally terminate the Agreement, and has had that right since approximately November 26, 2011; and

WHEREAS, Land Holding, LLC, has acquired the property and is the successor in interest to Miracle Strip Partners, LLC, and has requested cancellation of the Agreement; and

WHEREAS, the parties have determined that it is in their mutual best interests to cancel the Agreement on the terms and conditions provided for herein.

NOW THEREFORE, in consideration of the mutual promises and covenants herein, the parties expressly agree as follows:

AGREEMENT

1. The effective date shall be the date of recording of this Cancellation in the public records of Bay County, Florida (the "Effective Date").
2. The Development Agreement is hereby cancelled as of the Effective Date, and shall be void and of no further effect. Owner acknowledges and agrees that upon such

cancellation, development of the Property will be wholly governed and controlled by the City's Land Development Code, as amended.

- 3. Within ten (10) days of the execution of this Cancellation by all parties, the Owner shall record this Cancellation in the Official Records of Bay County, Florida.
- 4. Each of the parties, for and as to itself alone, represents and warrants that:
 - a. Such Party has not assigned or transferred any of the rights or obligations of the Development Agreement.
 - b. Such Party has the full and complete authority to enter into this Cancellation, and to execute any and all documents required to effect this Cancellation.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate authorized representative as of the date first above written.

Signed, seal and delivered
In the presence of

LAND HOLDING, LLC

Witness

By: _____
Its: _____

Witness

STATE OF FLORIDA)
COUNTY OF BAY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____, as _____ of **LAND HOLDING, LLC**, on behalf of the company who is personally known to me or has produced a _____ state driver's license as

Printed Name: _____
NOTARY PUBLIC, State of Florida
[NOTARIAL SEAL]

CITY OF PANAMA CITY BEACH
FLORIDA

ATTEST: _____
Diane Floyd, City Clerk

By: _____
Mario Gisbert
Its: City Manager

STATE OF FLORIDA)
COUNTY OF BAY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Mario Gisbert, as City Manager of the **CITY OF PANAMA CITY BEACH, FLORIDA**. He is personally known to me or has produced a _____ state driver's license as identification.

Printed Name: _____
NOTARY PUBLIC, State of Florida
[NOTARIAL SEAL]



CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:

Building and Planning Department/Mel Leonard

2. MEETING DATE:

07/13/2017

3. REQUESTED MOTION/ACTION:

It is requested that the City Council consider the request by Land Holding, LLC to cancel the Development Agreement between Miracle Strip Partners and the City for 21.79 acres located at 11500 Hutchison Boulevard.

4. AGENDA

PRESENTATION
PUBLIC HEARING
CONSENT
REGULAR

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? Yes No N/A
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED Yes No N/A

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

The City approved of a Development Agreement for the above referenced property on November 26, 2007. The Agreement required height limitations and buffering to better protect the adjacent neighborhood (Palm Cove) because the zoning code at the time did not sufficiently address these issues. The current LDC requires similar protections as those required in the Development Agreement. The Development Agreement will expire in November of this year and the applicants wish to cancel earlier so they can proceed with development of a residential subdivision on this commercially zoned property. Below are the comparisons of what is required by the Development Agreement and what is required by the Land Development Code.

1. A 25 foot buffer is required by the Agreement and Comprehensive Plan Policy 13.3(3). If the Agreement is approved for cancellation, an amendment will need to be made to the Plan for consistency;
2. The maximum allowable density is 10 dwelling units per acre in the Development Agreement and the Comprehensive Plan (Policy 13.3(1));
3. The maximum allowable building height of the Development Agreement is 40 feet up to a distance of 216 feet from Palm Cove subdivision then a maximum of 70 feet thereafter. The LDC permits a maximum building height of 65 feet with an opportunity to utilize incentives (upon Council approval) up to a height of 85 feet. However, the setbacks of the LDC (as shown on the next page) result in larger setbacks closer to Palm Cove than does the Development Agreement but lesser setbacks with increased distance; and,
4. A comparison of the required setbacks is shown on the following page.

The City Council discussed this item at their April 13, 2017 meeting and instructed staff to produce the paperwork to cancel the Development Agreement.

Miracle Strip Partners Setback Comparison

<u>Story</u>	<u>Development Agreement</u>	<u>Land Development Code</u>
1 story	25 feet	15 feet
2 story	25 feet	25 feet
3 story	25 feet	35 feet
4 story	25 feet	45 feet
5 story	217 feet	55 feet
6 story	217 feet	65 feet
7 story	217 feet	75 feet (but only with approved incentives)